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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**

7 \* \* \*

8 UNITED STATES OF AMERICA, )

9 Plaintiff, )

10 vs. )

11 KORTNEY JOHNSON, )

12 Defendant. )  
13 \_\_\_\_\_)

Case No. 2:10-cr-167-RLH-GWF

**ORDER**  
(Motion for Return of Property—#57)

14 Before the Court is the Motion of Howard James Varner, for Return of Property  
15 Subject to Forfeiture Pursuant to 21 U.S.C. Section 853(n)(2) (#57, filed November 3, 2011).

16 No Response or Opposition has been filed by the Government or any other interested parties.

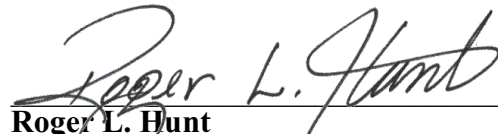
17 Movant Howard James Varner establishes that the property he seeks, a Springfield  
18 Armory, Model XK-9 9mm pistol with serial number US851260, belongs to him, that it was stolen in  
19 Las Vegas, Nevada, in May 2008, from his vehicle while visiting here. He has provided a concealed  
20 weapon permit identifying the weapon and a copy of the theft report.

21 Local Criminal Rule LCR 47-9 provides that, “The failure of an opposing party to file  
22 points and authorities in response to any motion shall constitute a consent to the granting of the  
23 motion.”

24 Accordingly, the Government, by its failure to oppose the motion has consented to the  
25 Court’s granting of the motion. Furthermore, the motion establishes that Varner has the right to have  
26 the property returned.

1 IT IS THEREFORE ORDERED that Howard James Varner's Motion for Return of  
2 Property (#57) is GRANTED and the Government is ordered to return the property to him forthwith.

3 Dated: December 1, 2011.

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6 **Roger L. Hunt**  
7 **United States District Judge**  
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